



**Driving Trucking's Success**

April 18, 2002

Dockets Management Facility  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street, SW.  
Washington, DC 20590-0001

**Re: Docket No. FMCSA-98-3297**  
**Re: Docket No. FMCSA-98-3298**  
**Re: Docket No. FMCSA-98-3299**

Dear Sir or Madam:

This letter is in response to the Federal Motor Carrier Safety Administration's (FMCSA) notices of two interim final rules and a final rule, referenced above, in relation to operations by Mexican motor carriers in the United States.

### **Introduction**

American Trucking Associations (ATA), Inc., with offices located at 2200 Mill Road, Alexandria, Virginia 22314-4677, is the national trade association of the trucking industry. Through our affiliated trucking associations, and their over 30,000 motor carrier members, affiliated conferences, and other organizations, ATA represents every type and class of motor carrier in the country.

ATA has long viewed free trade as an important tool in improving our country's economic growth and is a strong supporter of the North American Free Trade Agreement (NAFTA). The trucking industry plays a critical role in the success of NAFTA since trucks transport over 80% of the value of U.S.-Mexico trade, and over 70% for U.S.-Canada trade. Implementing NAFTA's trucking provisions will allow motor carriers to better meet the transportation demands of our growing trade flows, doing so in an efficient, effective, safe, and secure manner.

ATA agrees with FMCSA that it is critical that any carrier operating in the U.S., be it within the border commercial zones or beyond them, comply with the Federal Motor Carrier Safety Regulations (FMCSR). The NAFTA's trucking provisions require all foreign carriers operating in the United States to comply with U.S. standards and regulations. Just as with Canadian carriers, every single Mexican carrier operating under NAFTA's new grant of access *must* meet all U.S. safety regulations. The U.S. trucking industry fully supports rigorous enforcement of all U.S. safety standards on foreign motor carriers operating in this country.

However, a number of important concerns raised by ATA in our comments submitted to the dockets last July in response to the NPRMs remained unanswered in the interim final and final rules published March 19, 2002. A series of questions were queried from FMCSA as to:

- How FMCSA intends to undertake the enforcement of the proposed rules?
- Can FMCSA assure fair and unbiased treatment of Mexican motor carriers when reviewing their OP-2 and OP-1(MX) applications?
- What measures will FMCSA take to ensure that agency officials have clear, established guidelines for the review and approval process, so that discretion and subjectivity is limited in the final approval of the applications?
- What level of resources has FMCSA dedicated in order to undertake the safety audits as Mexican carries apply for a Certificate of Registration or Operating Authority?

ATA assumes FMCSA will base its need for resources depending on the number of applications the agency receives by Mexican motor carriers. The intended effect of the questions above was to better understand the process by which FMCSA is readying itself to begin accepting and processing applications by Mexican motor carriers.

### **Security Considerations and Border Coordination**

As in all other sectors of our country's economy, the attacks of September 11 have heightened security concerns, including for motor carriers operating across our borders with Canada and Mexico. Immediately following the attacks, ports of entry at our international land borders were put on Level 1 Alert, resulting in extreme crossing delays, and severely hampering delivery of parts and equipment for just-in-time deliveries at manufacturing operations. Although the severe delays lasted only a few days, crossing times are still not at levels as those prior to the attacks on our nation.

From a security perspective, implementing NAFTA's trucking provisions would enhance the security of cross-border trucking operations by simplifying the movement of trailers across our common borders. In a report to Congress issued in 1997 by the White House on U.S.-Mexico anti-drug cooperation, the U.S. Customs Service wrote:

*The high congestion of truck traffic entering the United States is, in part, a result of restrictions imposed by both the United States and Mexico on crossborder motor carrier operation... over 50% of commercial trucks enter the United States empty, contributing to border congestion and increasing the inspection burden for border agencies.*

Therefore, NAFTA's trucking provisions allow for carriers throughout North America to improve their ability to make cross-border trucking more efficient, effective, safer, and more secure.

In the publication of the interim and final rules, FMCSA also failed to answer ATA's concerns on how the agency plans to coordinate and work with other U.S. federal and state government agencies to assure that Mexican motor carriers abide by U.S. rules and regulations. ATA raised the possibility of FMCSA establishing a "border coordinator" to improve communication and cooperation with other federal agencies that play an important role in the operations of foreign motor carriers in the U.S., including the Immigration and Naturalization Service (INS), the U.S. Customs Service, the Internal Revenue Service (IRS), U.S. Department of Labor (DOL) and the Environmental Protection Agency (EPA). This seems especially appropriate

now since there is the addition of increased security requirements being developed for the movement of cargo and people entering and exiting our nation through our sea, air and land ports.

ATA encourages DOT and FMCSA to continue working with other federal government agencies, in coordination with border state authorities and their Mexican counterparts, to allocate resources to develop and improve border infrastructure. Such development should focus not only on physical “bricks-and-mortar” infrastructure, but also on potential technologies that could improve the efficiency and effectiveness with which ports of entry along the border operate.

### **Operations of U.S. Small Package Carriers in Mexico**

As ATA also mentioned in its comments to the proposed rules, another important NAFTA commitment continues to be unmet: The lack of national treatment for U.S. expedited package carriers by the Mexican government. Under NAFTA, U.S. express delivery companies, such as UPS and Federal Express, were granted national treatment and the right to use larger size vehicles to move packages. However, in order to protect domestic carriers, the Mexican government has ignored the American delivery companies’ request for permits to use larger delivery vehicles, which puts U.S. express package companies at a competitive disadvantage. U.S. expedited package carriers cannot compete on a level playing field in Mexico because the Ministry of Transportation and Communications has restricted the companies from using commercial vehicles equal in size and weight to those which Mexican expedited package carriers can use.

Providing the benefits of NAFTA’s transportation provisions of investment and access to Mexican small and expedited package carriers must be contingent upon Mexico effectively resolving to provide U.S. express package operators national treatment.

Therefore, ATA encourages U.S. DOT Secretary Mineta to pursue the recent overtures by the Mexican government to bring this issue to a mutually agreeable resolution in the near term.

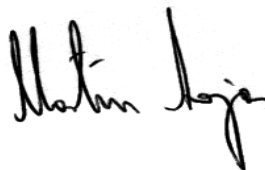
### **Conclusion**

ATA's first priority is highway safety. Our commitment to highway safety is reflected in the many safety initiatives we have developed or supported over the years. These include the Motor Carrier Safety Assistance Program, the Commercial Driver's License Program, the random drug and alcohol testing requirements for truck drivers, the radar detector ban, and many others. As a strong advocate for highway safety, ATA supports the full implementation of NAFTA. In addition to providing an improved transportation delivery system for the increasing flow of goods between our countries, it will also improve enforcement capabilities of agencies operating along the border.

Respectfully submitted,



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